

USE BY CIVIL AIRCRAFT OF CERTAIN MILITARY BASES IN CARIBBEAN AND BERMUDA

Agreement and exchanges of notes signed at Washington February 24, 1948

Entered into force February 24, 1948

*Supplemented by agreement of March 23 and April 25, 1951, as supplemented*¹

*Superseded in part by agreement of February 10, 1961,*² *with the Federation of The West Indies*

62 Stat. 1860; Treaties and Other
International Acts Series 1717

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING THE OPENING OF CERTAIN MILITARY AIR BASES IN THE CARIBBEAN AREA AND BERMUDA TO USE BY CIVIL AIRCRAFT

WHEREAS, in pursuance of Notes exchanged on September 2, 1940,³ an Agreement (hereinafter referred to as "the Bases Agreement") was made on March 27, 1941,⁴ between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the two Governments"), providing for the lease to the United States of certain areas in the Western Hemisphere upon the terms and conditions set out in the Bases Agreement;

AND WHEREAS, in pursuance of the said Notes and of the Bases Agreement, naval and air Bases have been established in the areas aforesaid;

AND WHEREAS Article XI(5) of the Bases Agreement provides that "commercial aircraft will not be authorized to operate from any of the Bases (save in case of emergency or for strictly military purposes under supervision of the War or Navy Departments) except by agreement between the United States and the Government of the United Kingdom; provided that in the case of

¹ 2 UST 1311, 11 UST 1472; TIAS 2282, 4489.

² 12 UST 408; TIAS 4734.

³ EAS 181, *ante*, p. 551.

⁴ EAS 235, *ante*, p. 560.

Newfoundland such agreement shall be between the United States and the Government of Newfoundland”;

AND WHEREAS the two Governments recognize that there are special circumstances connected with the Bases;

AND WHEREAS the two Governments desire to foster and encourage the widest possible distribution of the benefits of air travel for the general good of mankind at the cheapest rates consistent with sound economic principles; and to stimulate international air travel as a means of promoting friendly understanding and good will among peoples and ensuring as well the many indirect benefits of this form of transportation to the common welfare of both countries;

AND WHEREAS the two Governments desire to arrange for certain of the air Bases aforesaid to be available for use by civil aircraft without interfering with, restricting or limiting the present military rights of the United States in, or the continued military use by the United States of, the said Bases in accordance with the Bases Agreement;

AND WHEREAS Heads of Agreement were initialled at Bermuda on February 11, 1946, with a view to the preparation and conclusion of an Agreement to give effect to these desires;

AND WHEREAS Article XII (a) of those Heads of Agreement provided that the two Governments should consult together and prepare an Agreement to give effect to the terms contained in those Heads of Agreement;

NOW, THEREFORE, the two Governments, having consulted accordingly, have agreed as follows:

ARTICLE I

Bases open for civil use

(1) The following Bases (hereinafter referred to as the “Regular Bases”) will be open for regular use by civil aircraft, in accordance with the provisions of the present Agreement:

Kindley Field, Bermuda,
Coolidge Field, Antigua,
Beane Field, St. Lucia,
Atkinson Field, British Guiana.

(2) The following Bases (hereinafter referred to as the “Alternate Bases”) will be open for use by civil aircraft as weather alternates only, in accordance with the provisions of the present Agreement:

Carlson Field, Trinidad,
Waller Field, Trinidad,
Vernam Field, Jamaica.

(3) The circumstances in which the Alternate Bases may be used as weather alternates shall be such as may be defined by rules established in that

behalf by the International Civil Aviation Organization or, in the absence of such rules, by agreement between the two Governments.

(4) If and so long as in a Territory where an Alternate Base is situated, there is at any time no civil airport designated and available for regular use by scheduled international air services, the Alternate Base (or if there is more than one, the Alternate Base agreed between the Government of the Territory and the United States military authorities) shall be open for regular use by civil aircraft in accordance with the provisions of the present Agreement and shall accordingly be deemed to be a Regular Base for the purposes of the present Agreement.

(5) If either of the two Governments considers that experience or developments indicate the need for opening any of the Alternate Bases for regular use by civil aircraft or for closing any of the Regular Bases to regular use by civil aircraft, such opening or closing of the Base or Bases concerned shall form the subject of discussions between the two Governments and shall not take place except by agreement between the two Governments. This paragraph shall not be construed as affecting any right conferred by Article VI of the present Agreement to limit or suspend civil air operations at the Bases or to impose restrictions of a temporary or continuing nature on the use of the Bases by civil aircraft.

ARTICLE II

Special provisions affecting the United States and the United Kingdom

(1) Civil aircraft of the United States and of the United Kingdom shall be entitled to use the Bases on equally favorable terms. This paragraph shall not be construed as pertaining to traffic rights.

(2) The exercise of the privileges granted by the present Agreement shall be without prejudice to rights granted by the Government of the United Kingdom or the Government of a Territory to any civil air carrier of the United States before the execution of the present Agreement, or to any renewals or extensions of those rights.

(3) In the event of the termination of the Agreement between the two Governments, relating to air services between their respective territories, signed at Bermuda on February 11, 1946,⁵ its provisions and those of its Annex shall continue to apply to any traffic rights which civil air carriers of the United States may thereafter exercise at any of the Bases, until such time as the two Governments shall otherwise agree:

Provided that the Government of the United States of America shall have the right, at any time after fifteen years from the date on which the present Agreement becomes effective, to notify to the Government of the United Kingdom its desire that the provisions of the first mentioned Agreement and its Annex shall cease to apply, upon the date specified in the notification,

⁵ TIAS 1507, *ante*, p. 726.

to the traffic rights exercised by civil air carriers of the United States at any of the Bases, which date shall not be less than two years from the date of the notification, and, if such notification shall be given, such provisions shall cease to apply accordingly.

ARTICLE III

Use of Bases for non-traffic purposes

(1) So long as the United States and the United Kingdom are parties to the International Air Services Transit Agreement, formulated at Chicago and opened for signature on December 7, 1944⁶ (in this Article referred to as "the Two Freedoms Agreement"), the civil aircraft of all countries parties to the Two Freedoms Agreement may use the Bases for non-traffic purposes in accordance with the provisions of the present Agreement and those of Article I of the Two Freedoms Agreement, and, if the United States so requests, those Bases will be designated by the Government of the United Kingdom under that Agreement for use by scheduled international air services of the United States.

(2) Civil aircraft of countries which are not parties to the Two Freedoms Agreement but which are parties to other agreements to which the United States or the United Kingdom is also a party, providing for the privileges specified in the Two Freedoms Agreement, may, with the concurrence of the two Governments, use the Bases, in accordance with the provisions of the present Agreement, for the exercise of those privileges.

(3) In the event of the Two Freedoms Agreement being superseded by a new agreement, to which the two Governments are parties, providing for the privileges specified in the Two Freedoms Agreement, the provisions of this Article shall apply to the exercise of those privileges under the said new agreement as they apply to their exercise under the Two Freedoms Agreement.

ARTICLE IV⁷

Traffic rights

(1) Any civil air carrier of the United States using the Bases shall, if authorized by the Government of the United States of America to operate to the Base or Bases concerned, be entitled, by way of exception to and without prejudice to the principle of cabotage, to carry between the Regular Bases

(a) United States Government sponsored passengers (and their personal effects) travelling at the expense of the Government of the United States of America or on business directly connected with the Bases or with United States personnel at the Bases;

⁶ EAS 487, *ante*, vol. 3, p. 916.

⁷ For understandings relating to art. IV, see exchange of notes, p. 863.

(b) cargo carried at the expense of the Government of the United States of America; and

(c) mail originating at United States Post Offices established in accordance with Article XVI of the Bases Agreement.

(2) The Government of the United Kingdom may grant to civil air carriers using the Regular Bases traffic rights at those Bases: Provided that, except by agreement between the two Governments,

(a) no rights so granted (including those granted to civil air carriers of the United Kingdom) shall be greater than, or different from, those granted to civil air carriers of the United States at the said Bases, save as provided in paragraph (3) of this Article; and

(b) the rights so granted to civil air carriers of third countries shall not exceed the corresponding rights which such third countries shall have granted (not necessarily on the same routes as those operated by the air carriers of the third countries concerned) in their respective territories to civil air carriers of the United States.

(3) Civil air carriers of the United Kingdom shall be entitled to carry cabotage traffic to and from any Regular Base at which civil air carriers of the United States are entitled to exercise traffic rights and, save as provided in paragraph (1) of this Article, civil air carriers of the United States shall not be hereby deemed entitled to carry cabotage traffic between any two points in the territory of the United Kingdom.

ARTICLE V

Private and Charter Flights

(1) Subject to the provisions of Article VI of the present Agreement, and to such regulations, conditions and limitations as may be imposed by the law of the Territory, civil aircraft to which this Article applies, being aircraft not engaged in scheduled international air services, shall be entitled to use the Bases, in accordance with the provisions of the present Agreement,

(a) for non-traffic purposes; and

(b) for traffic purposes

(i) in the case of charter flights for the purposes of the charter, and

(ii) in the case of other flights, otherwise than for reward.

(2) This Article applies, on a non-discriminatory basis, to civil aircraft of the United States and of the United Kingdom, and to those of any other country which is a party to the Convention on International Civil Aviation, which came into force on April 4, 1947: ⁸ Provided that this Article shall not

⁸ TIAS 1591, *ante*, vol. 3, p. 944.

apply to the civil aircraft of any third country unless civil aircraft both of the United States and of the United Kingdom enjoy corresponding rights in such third country.

ARTICLE VI

Limitation of civil use

(1) The United States' military authorities, for military reasons, or the Government of the Territory, for security reasons, shall have the right on a non-discriminatory basis, to limit or suspend civil air operations at the Bases or to impose restrictions of a temporary or continuing nature on the use of the Bases by civil aircraft, but will make every reasonable effort to avoid interruption of civil air operations at the Bases.

(2) Except as provided in paragraph (1) of the present Article, the authorities exercising administrative and operational control at any Base shall not impose any limitation on the use of the Base by civil aircraft in accordance with the provisions of the present Agreement except so far as may be necessary for reasons of safety or in the light of the capacity of, and the facilities available at, the Base. Any such limitation shall be imposed on a fair and non-discriminatory basis, except that scheduled international air services shall be afforded preferential treatment.

(3) The United States military authorities and the Government of the Territory (except so far as those authorities, or that Government, as the case may be, are satisfied that it is undesirable for military reasons or for security reasons, respectively, or that it is for any reason impracticable, so to do) shall each give to the other such notice as appears to those authorities or that Government to be reasonable in all the circumstances, of their intention to impose any limitation, suspension or restriction under this Article.

ARTICLE VII

Administrative and operational control and requirements

(1) Administrative and operational control of the Bases for civil aviation purposes shall be exercised by the United States military authorities, except as otherwise specifically provided in the present Agreement. The United States military authorities may delegate the performance of certain services to civilian agencies. Such delegation will be without prejudice to the right of the United States military authorities to resume the performance of such services at any time and without delay.

(2) Except as may be otherwise agreed between the two Governments,

(a) airport tower control and approach control shall be operated by or under the direction of the United States military authorities, who will, in consultation with the Government of the Territory, ensure that the periods for which and the manner in which those controls are provided are adequate to meet the needs of civil aircraft using the Bases;

(b) the responsibility for area control will be determined in the light of the studies and recommendations of the International Civil Aviation Organization;

(c) the meteorological facilities and operational communication facilities and other aids to navigation required by civil aircraft using the Bases will be provided by or under the direction of the United States military authorities, in accordance with the recommendations of the International Civil Aviation Organization.

ARTICLE VIII

Facilities, supplies and services and the designation of areas therefor

(1)(a) Except as provided in Article VII of the present Agreement, facilities, supplies and services required for, or in connection with the operation of, civil aircraft using the Bases, or for or by passengers, crews or other persons present in the Leased Area solely for civil aviation purposes, may be provided, either within an area designated under paragraph (2) of this Article or outside the Leased Area, by the Government of the Territory or, with the permission of the Government of the Territory, by any civil enterprise.

(b) Such facilities, supplies and services may also, with the permission of the Government of the Territory, be provided by the United States, at such place or places within an area designated under paragraph (2) of this Article or outside the Leased Area as may be agreed, or at such other place or places within the Leased Area as may be previously notified to the Government of the Territory by the United States military authorities. If such facilities, supplies and services are so provided by the United States, the taxes and duties (if any) which would have been payable under the law of the Territory in respect of any such transaction if such facilities, supplies or services had been provided by a civil enterprise under subparagraph (a) of this paragraph shall be payable to the Government of the Territory, and shall be levied and collected in such manner as may be agreed between the Government of the Territory and the United States military authorities.

(c) Such facilities, supplies and services shall be provided without discrimination and at equitable prices, which shall be non-discriminatory as to all operators of civil aircraft using the Bases, whether civil air carriers or not. Such prices shall be determined after consultation between the Government of the Territory and the United States military authorities, or, if necessary, after consultation between the two Governments.

(d) If an area is designated in accordance with paragraph (2) of this Article, or if, by reason of there being suitable land conveniently adjacent to the Base, such designation is unnecessary, then,

(i) such facilities, supplies and services shall be provided by the Government of the Territory or by a civil enterprise in accordance

with sub-paragraph (a) of this paragraph or, in so far as they are not so provided, the United States shall have the right to provide such facilities, supplies or services without obtaining the permission of the Government of the Territory, but otherwise in accordance with sub-paragraph (b) of this paragraph, and

- (ii) the Government of the Territory will provide all such facilities for customs, immigration, quarantine and other similar matters of Colonial or United Kingdom national interest as may be necessary in connection with the use of the Base by all civil aircraft entitled to such use.

(e) Except as respects taxes and duties referred to in sub-paragraph (b) of this paragraph, all sums received in respect of the provision of any facilities, supplies or services under this paragraph shall accrue to the Government or civil enterprise by which the facilities, supplies or services in question are provided.

(2) (a) At each of the Bases where suitable land is not conveniently adjacent thereto for the provision of necessary civil airport facilities, supplies and services and for the erection of buildings for post and telegraph purposes, customs, immigration, quarantine and other similar matters of Colonial or United Kingdom national interest, the United States military authorities, in consultation with the Government of the Territory, will, if this is possible without conflict with military requirements, designate an appropriate area or areas within the boundaries of the Base for such purposes. The United States military authorities shall permit to have convenient access to and egress from the area or areas so designated all bona fide passengers and air crews and all other persons whose presence there is certified by the Government of the Territory to be necessary for civil aviation purposes. Subject to the provisions of the present Agreement, the area or areas so designated, the provision of the said facilities, supplies and services and the conduct of the said matters within the area or areas so designated shall be under the control and jurisdiction of the Government of the Territory in the same manner and to the same extent as they would be if the area or areas so designated were outside the Leased Area:

Provided that the United States military authorities shall have the right to resume complete and unrestricted control and use of the designated area or areas and its or their facilities should this prove to be necessary for military reasons of overriding necessity.

(b) Subject to the provisions of this Article, the terms and conditions on which any such area and any buildings therein are designated shall be determined after consultation between the United States military authorities and the Government of the Territory or, if necessary, between the two Governments, it being understood that the Government of the Territory will pay agreed charges to the United States in respect of the use by that Govern-

ment of any buildings or other improvements constructed and made available by the United States in any such area.

(c) The terms and conditions upon which rights of occupancy or user of land within a Base, and the terms and conditions (including charges) upon which rights of occupancy or user of buildings or parts of buildings within a Base, are granted by the Government of the Territory shall be subject to the approval of the United States military authorities, it being understood that, so long as the Government of the United States maintains the Base in operational condition for civil use, and until such time as the Government of the Territory assumes the said maintenance, any profit accruing to the Government of the Territory from charges made to any civil enterprise for the right to provide facilities, supplies and services in such buildings or parts of buildings, erected and made available by the United States, will be paid to the Government of the United States.

(3) The United States military authorities shall have the right, in collaboration with, or after prior notice to, the appropriate Colonial authorities, to enter upon and to inspect any area designated under paragraph (2) of this Article and any buildings and any facilities or services provided in such area, for the purpose of satisfying themselves that adequate precautionary measures are taken in connection with fire prevention, sanitation and other matters affecting the military security or use of the Base. If the United States military authorities consider that the precautionary measures taken are not adequate, they shall have the right, in consultation with the appropriate Colonial authorities, or, in cases where military reasons so require, on their own initiative, to supplement those measures to the extent considered necessary.

(4) Where any buildings or other structures are erected or used for civil aviation purposes, either within an area designated under paragraph (2) of this Article or outside but contiguous to a Base, there shall be consultation between the appropriate Colonial authorities and the United States military authorities and, if necessary, between the two Governments, with respect to the location, type, size and sanitation of such buildings, or other structures, in order to ensure that they do not endanger the safe operation of aircraft or the military use of the Base.

ARTICLE IX

Landing Fees

The scale of landing fees to be charged for the use by civil aircraft of each Base shall be determined by the United States military authorities after consultation with the appropriate Colonial authorities, or, if necessary, after consultation between the two Governments, and the revenue derived from such fees shall accrue to the United States:

Provided that, whenever the Government of the United Kingdom or the Government of the Territory assumes responsibility for the maintenance of a Base for civil use, or for the provision or maintenance there of air navigational or meteorological facilities and services, or operational communication facilities, used by civil aircraft, the scale of landing fees and the method of collection thereof shall be determined by agreement between the appropriate United Kingdom or Colonial authorities and the United States military authorities and the revenue from such fees shall be divided between the United States of America and the Government of the United Kingdom or of the Territory, in proportions to be agreed, having special regard to the expenditure incurred by each for these purposes.

ARTICLE X

Suspension of United States responsibilities

(1) If the Government of the United States of America elects to place any Base in a caretaker status and gives to the Government of the United Kingdom such notice as is reasonable in all the circumstances, of its intention so to do,

(a) the Government of the United States of America may cease to maintain that Base in operational condition for civil use, and may relinquish the responsibility at that Base for any of the matters specified in Article VII of the present Agreement, and

(b) the Government of the United Kingdom or the Government of the Territory shall then have the right to maintain the Base for civil use, and to assume the responsibility so relinquished for the said matters.

(2) The Government of the United States of America shall have the right, at any time while the lease of the Leased Area subsists, to resume the maintenance and control of such Base on giving to the Government of the United Kingdom such notice as is reasonable in all the circumstances, of its intention so to do, whereupon the provisions of sub-paragraphs (a) and (b) of paragraph (1) of this Article shall cease to have effect.

ARTICLE XI⁹

Procedure on landing of civil aircraft

Civil aircraft using any of the Bases shall, immediately after landing, proceed forthwith to the place (which shall be either within an area designated under Paragraph (2) (a) of Article VIII of the present Agreement, or outside the Leased Area) specified for that purpose by the Government of the Territory, and any loading and unloading of persons, mail and cargo shall take place only at the place so specified or at any other place within the Base

⁹ For an understanding relating to art. XI, see exchange of notes, p. 862.

agreed between the United States military authorities and the Government of the Territory. The United States military authorities will cooperate with the Government of the Territory to ensure that all civil aircraft using the Bases comply with these requirements.

ARTICLE XII

Miscellaneous Provisions

(1) Nothing in the present Agreement shall be construed to deprive the Government of the United States of America of any of its rights, privileges, immunities or exemptions under the Bases Agreement. It is recognized that, according to the true intent,

(a) the rights conferred by Article IX of the Bases Agreement are not exercisable for civil aviation purposes;

(b) paragraph (1) of Article XII of the Bases Agreement is inapplicable to the use of motor vehicles for civil aviation purposes outside the Leased Area;

(c) paragraphs (1) and (2) of Article XIV of the Bases Agreement are inapplicable to goods or articles brought into the Territory or to persons present in the Territory, solely for civil aviation purposes;

(d) Post Offices established under Article XVI of the Bases Agreement may not be used by persons present in the Territory solely for civil aviation purposes; and

(e) paragraph (1) of Article XVII of the Bases Agreement is inapplicable in respect of any income derived solely from service or employment for civil aviation purposes; paragraph (2) of that Article is inapplicable to any person present in the Territory solely for those purposes; and paragraph (3) of that Article does not exempt any person from income tax on profits derived under a contract in so far as they are solely attributable to the use of the Base by civil aircraft.

(2) The provisions of Article IV of the Bases Agreement shall apply to persons in the Territory for civil aviation purposes in the same manner as they apply to persons in the Territory for other purposes.

(3) Any person arrested within an area designated under paragraph (2) of Article VIII of the present Agreement, in connection with an infringement of the law of the Territory or otherwise in pursuance of that law, may be removed from the designated area through the Leased Area by the appropriate Colonial authorities.

(4) The United States may grant rights in land or buildings within the Leased Area to the Government of the Territory or, with the permission of that Government, to civil air carriers or other civil enterprises, for civil aviation purposes.

ARTICLE XIII

Operation of the present Agreement

(1) The present Agreement shall become effective on signature and shall continue in effect in each of the Territories until the expiration of the lease of the Leased Area therein, unless either of the two Governments shall, at any time after the present Agreement has been in effect for fifteen years, give to the other notice of termination, in which event, the Agreement shall cease to be effective two years after the date of the receipt of such notice.

(2) While the Agreement continues in effect, the two Governments will consult together not less than once in every five years to review the operation of the Agreement and to agree upon any modifications that may be desired.

(3) The Agreement shall be fulfilled in a spirit of good neighborliness and details of its practical application shall be arranged by friendly cooperation.

ARTICLE XIV

Interpretation

In the present Agreement, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:

“Base” means any of the Regular or Alternate Bases referred to in Article I of the present Agreement.

“Leased Area” means an area in respect of which a lease has been or shall be entered into in pursuance of the Bases Agreement; and “the Leased Area” means the Leased Area concerned.

“Territory” means a part of His Majesty’s dominions in which a Leased Area is situated; and “the Territory” means the Territory concerned.

“Civil Aircraft” means aircraft other than those used in military, customs, or police services.

“Civil air carrier” means any civilian air transport enterprise offering or operating air services for the transport, for hire or reward, of passengers, mail or cargo.

“Civil aviation purposes” means purposes connected with the use of a Base by civil aircraft in accordance with the provisions of the present Agreement.

“Traffic Rights” means the right to take on to civil aircraft or to discharge from civil aircraft, passengers, mail or cargo.

“Charter flights” means all non-scheduled flights undertaken for reward by civil aircraft.

“Non-traffic purposes” means any purpose other than taking on or discharging passengers, mail or cargo.

“Territory of the United Kingdom” includes all territory under the sovereignty, suzerainty, protection, mandate or trusteeship of the United King-

dom, and the territorial waters adjacent thereto; "civil aircraft of the United Kingdom" and "civil air carriers of the United Kingdom" include the civil aircraft and the civil air carriers of any such territory.

Expressions referring to persons present in the Territory for civil aviation purposes include persons who are in the Territory by reason of the use of the Base for civil aviation purposes.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Agreement.

DONE at Washington, in duplicate, this twenty-fourth day of February, 1948.

For the Government of the United States of America:

G. C. MARSHALL

For the Government of the United Kingdom of Great Britain and Northern Ireland:

INVERCHAPEL

EXCHANGES OF NOTES

The British Ambassador to the Secretary of State

BRITISH EMBASSY,
WASHINGTON, D.C.

24th February, 1948

No. 95

SIR,

I have the honour to refer to Article XI of the Agreement relating to the civil use of the leased air bases signed today and to inform you that it is the understanding of my Government that if the United Kingdom is at war, the Government of the United Kingdom or the Government of the Territory concerned will be entitled to exercise rights of censorship, contraband control and other like belligerent rights, within any area designated under paragraph (2) of Article VIII; and that if the United States is at war, the United States will be entitled to detain any aircraft, before it proceeds to the place specified under Article XI, so long as may be necessary for the exercise of such rights.

2. If the Government of the United States of America agrees, I would suggest that the present note and Your Excellency's reply should be regarded as placing on record the understanding of the two Governments in this matter.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

INVERCHAPEL

The Honourable

GEORGE C. MARSHALL,

*Secretary of State of the United States,
Washington, D.C.*

The Secretary of State to the British Ambassador

DEPARTMENT OF STATE

WASHINGTON

February 24, 1948

EXCELLENCY:

I have the honor to acknowledge receipt of Your Excellency's note of today's date, the terms of which are as follows:

[For terms of understanding, see first two paragraphs of British note, above.]

In reply I have the honor to inform you that my Government agrees that if the United Kingdom is at war, the Government of the United Kingdom or the Government of the Territory concerned will be entitled to exercise rights of censorship, contraband control and other like belligerent rights, within any area designated under paragraph (2) of Article VIII; and that if the United States is at war, the United States will be entitled to detain any aircraft, before it proceeds to the place specified under Article XI, so long as may be necessary for the exercise of such rights.

In accordance with the suggestion contained therein, Your Excellency's note and this reply will be regarded as placing on record the understanding of the two Governments in this matter.

Accept, Excellency, the renewed assurances of my highest consideration.

G. C. MARSHALL

His Excellency

The Right Honorable

THE LORD INVERCHAPEL, P.C., G.C.M.G.,

British Ambassador.

The Secretary of State to the British Ambassador

DEPARTMENT OF STATE

WASHINGTON

February 24, 1948

EXCELLENCY:

I have the honor to refer to paragraph (2) of Article IV of the Agreement relating to the civil use of the leased air bases signed today, which provides that "the Government of the United Kingdom may grant to civil air carriers using the Regular Bases, traffic rights at those Bases: Provided that except by agreement between the two Governments,

"(a) no rights so granted (including those granted to civil air carriers of the United Kingdom) shall be greater than, or different from, those granted

to civil air carriers of the United States at the said Bases, save as provided in paragraph (3) of this Article; and

“(b) the rights so granted to civil air carriers of third countries shall not exceed the corresponding rights which such third countries shall have granted (not necessarily on the same routes as those operated by the air carriers of the third countries concerned) in their respective territories to civil air carriers of the United States,”

and to inform you that my Government agrees that the provisions of sub-paragraphs (a) and (b) of the said paragraph (2) shall not apply to the carrying of United Kingdom cabotage traffic to or from any Regular Base by any Canadian civil air carrier granted such rights by the Government of the United Kingdom. It is also understood by my Government that that part of sub-paragraph 2 (b) of Article IV. of said Agreement that refers to “corresponding rights” is intended to refer to an exchange of air transport rights between such third country and the United States on a basis mutually satisfactory to them. As far as my Government is concerned, it is felt that the existing air transport arrangements between the United States and Canada adequately meet the provisos of sub-paragraph 2 (b) of Article IV.

If the Government of the United Kingdom agree, I would suggest that the present note and Your Excellency's reply should be regarded as an Agreement between our two Governments as contemplated in paragraph (2) of Article IV of the Agreement signed today.

Accept, Excellency, the renewed assurances of my highest consideration.

G. C. MARSHALL

His Excellency

The Right Honorable

THE LORD INVERCHAPEL, P.C., G.C.M.G.,

British Ambassador.

The British Ambassador to the Secretary of State

BRITISH EMBASSY,

WASHINGTON, D.C.

24th February, 1948

No. 96

SIR,

I have the honour to acknowledge receipt of Your Excellency's note of today's date, the terms of which are as follows:

[For terms of understandings, see U.S. note, above.]

2. In reply I have the honour to inform you that my Government agrees that the provisions of sub-paragraphs (a) and (b) of the said paragraph (2).

shall not apply to the carrying of United Kingdom cabotage traffic to or from any Regular Base by any Canadian civil air carrier granted such rights by the Government of the United Kingdom. It is also understood by my Government that that part of sub-paragraph 2 (b) of Article IV of said Agreement that refers to "corresponding rights" is intended to refer to an exchange of air transport rights between such third country and the United States on a basis mutually satisfactory to them. As far as my Government is concerned, it is felt that the existing air transport arrangements between the United States and Canada adequately meet the provisos of sub-paragraph 2 (b) of Article IV.

3. In accordance with the suggestion contained therein, Your Excellency's note and this reply will be regarded as an Agreement between our two Governments.

I have the honour to be, with the highest consideration, Sir,
Your most obedient, humble servant.

INVERCHAPEL

The Honourable
GEORGE C. MARSHALL,
Secretary of State of the United States,
Washington, D.C.